

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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THE BANK OF NEW YORK,	:	
	:	
Plaintiff,	:	
	:	07 Civ. 4659 (SAS)
v.	:	
	:	ECF Case
TYCO INTERNATIONAL GROUP S.A., TYCO	:	
INTERNATIONAL LTD., and TYCO	:	
INTERNATIONAL FINANCE S.A.,	:	
	:	
Defendants.	:	
-----	X	

**DECLARATION OF MARSHALL R. KING IN SUPPORT OF  
DEFENDANTS' OPPOSITION TO PLAINTIFF'S  
MOTION FOR AN INJUNCTION**

I, Marshall R. King, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am a member of the law firm Gibson, Dunn & Crutcher LLP, counsel for Defendants Tyco International Ltd., Tyco International Group S.A., and Tyco International Finance S.A. (collectively, "Tyco"). I submit this declaration in support of Defendants' Opposition to Plaintiff's motion for an injunction requiring that interest payments be made through the Trustee.
2. Attached hereto as Exhibit A is a true and correct excerpt of the Indenture dated June 9, 1998.
3. Attached hereto as Exhibit B is a true and correct excerpt of the Indenture dated November 12, 2003.

4. On January 24, 2008, Plaintiff The Bank of New York ("BNY") resigned from its role as indenture trustee, and later petitioned the Court to appoint a successor.

5. On March 25, 2008, the Court appointed Wilmington Trust Company as the successor Trustee.

6. Attached hereto as Exhibit C is a true and correct excerpt of the form of the 6.125% unsecured notes due 2008, issued under the 1998 Indenture.

7. Attached hereto as Exhibit D is a true and correct excerpt of the form of the 6.125% unsecured notes due 2009, issued under the 1998 Indenture.

8. Attached hereto as Exhibit E is a true and correct excerpt of the form of the 6.75% unsecured notes due 2011, issued under the 1998 Indenture.

9. Attached hereto as Exhibit F is a true and correct excerpt of the form of the 6.375% unsecured notes due 2011, issued under the 1998 Indenture.

10. Attached hereto as Exhibit G is a true and correct excerpt of the form of the 7.0% unsecured notes due 2028, issued under the 1998 Indenture.

11. Attached hereto as Exhibit H is a true and correct excerpt of the form of the 6.875% unsecured notes due 2029, issued under the 1998 Indenture.

12. Attached hereto as Exhibit I is a true and correct excerpt of the form of the 6.0% unsecured notes due 2013, issued under the 2003 Indenture.

13. Attached hereto as Exhibit J is a true and correct copy of a notice from BNY, as Indenture Trustee, to Holders of Notes Issued by Tyco International Group S.A., dated November 9, 2007.

14. On December 21, 2007, I received a call from Kevin O'Brien, counsel for BNY. Mr. O'Brien told me that BNY wanted to amend its complaint to add a claim for Tyco having

“hijacked” the November interest payment, and he asked for Tyco’s consent to file such an amendment. I told Mr. O’Brien that before Tyco could take a position, we wanted to see a copy of the proposed amended complaint. I never heard anything further from Mr. O’Brien and BNY never sought leave to file an amended complaint.

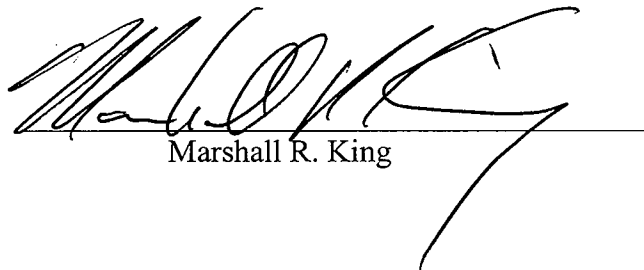
15. Attached hereto as Exhibit K is a true and correct copy of a letter from BNY to Depository Trust Company Clearing Corporation (DTC), dated January 17, 2008, demanding that DTC wire \$575,173.85 to BNY. On behalf of Tyco, one of my colleagues sent a letter to DTC objecting to BNY’s demand, and DTC continues to hold Tyco’s money.

16. Attached hereto as Exhibit L is a letter from Bank of New York to the Court, dated January 29, 2008.

17. Attached hereto as Exhibit M is a true and correct copy of a letter from Bank of New York to the Honorable Shira A. Scheindlin dated March 25, 2008.

18. Attached hereto as Exhibit N is a true and correct excerpt of the Transcript of the Court Conference held on March 25, 2008.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 1<sup>st</sup> day of April, 2008.

  
Marshall R. King